

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:)	OTA Case No. 220911328
IGLESIA DE CRISTO)	CDTFA Case ID: 141-046
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)	

OPINION

Representing the Parties:

For Appellant:	Adryel Levis, Pastor Marieolga Levis, Representative
For Respondent:	Kevin Smith, Attorney Jarrett Noble, Attorney Jason Parker, Chief of Headquarters Ops.

L. KATAGIHARA, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 6561, Iglesia De Cristo¹ (appellant) appeals a decision issued by respondent California Department of Tax and Fee Administration (CDTFA)² denying appellant's petition for redetermination of a Notice of Determination (NOD) dated March 10, 2017. The NOD is for a tax of \$13,500 and is based on CDTFA's determination that appellant purchased an aircraft for use in this state on April 26, 2016, for \$150,000.

Office of Tax Appeals (OTA) Administrative Law Judges Sheriene Anne Ridenour, Josh Lambert, and Lauren Katagihara held an oral hearing for this matter electronically on January 23, 2024. At the conclusion of the hearing, the record was closed and this matter was submitted for an Opinion.

¹ Appellant is registered with the California Secretary of State as Iglesia De Cristo "Tabernaculo De Fe" Ministerios Llamada Final.

² Sales and use taxes were formerly administered by the State Board of Equalization (board). In 2017, functions of the board relevant to this case were transferred to CDTFA. (Gov. Code, § 15570.22.) For ease of reference, when this Opinion refers to events that occurred before July 1, 2017, "CDTFA" shall refer to the board.

ISSUE

Whether appellant is liable for the California use tax imposed upon appellant's storage, use, and consumption of an aircraft in this state.

FACTUAL FINDINGS

1. Appellant has been registered with the California Secretary of State as a nonprofit religious corporation since November 28, 2011.
2. On March 29, 2016, appellant executed an Aircraft Purchase Contract listing itself as the buyer, and GT QC, LLC (the seller) as the seller, of a Cessna aircraft (aircraft). The purchase price listed on the Aircraft Purchase Contract is \$150,000.
3. On April 26, 2016, Aero-Space Reports, Inc. (Aero-Space) filed an Aircraft Bill of Sale (Bill of Sale) and appellant's Aircraft Registration Application (Registration Application) with the Federal Aviation Administration (FAA). The Bill of Sale states appellant purchased the aircraft for consideration of "\$1.00 + OVC."³ The Registration Application identifies appellant as the owner of the aircraft.⁴
4. It is undisputed that appellant took title to the aircraft in Illinois on April 26, 2016, and that the aircraft entered California on or around April 28, 2016.
5. Thereafter, CDTFA sent an Information Request form to the seller inquiring about the sale of the aircraft. The seller completed the form and provided the following information therein: (1) appellant was the purchaser of the aircraft; (2) the selling price of the aircraft was \$150,000; (3) the aircraft was delivered to appellant in Illinois; and (4) the aircraft was sold through a broker.
6. CDTFA also sent a Combined State and Local Consumer Use Tax Return for Aircraft (Return) to appellant. Appellant completed and filed the Return. In the Return, appellant listed the purchase price of the aircraft as \$150,000 but claimed no tax was due.⁵

³ "OVC" generally stands for "other valuable consideration," but appellant was unable to confirm whether that was the case here.

⁴ The FAA accepted appellant's Registration Application on June 14, 2016.

⁵ On the Return, appellant claimed that, as a non-profit religious corporation, its purchase of the aircraft is exempt from tax. CDTFA denied appellant's claimed exemption because there are no sales and use tax exemptions afforded to organizations based solely on entity type. Appellant has not asserted this argument in its appeal with OTA, and thus, will not be discussed further.

7. On March 10, 2017, CDTFA timely issued the NOD to appellant.
8. Appellant filed a timely petition for redetermination disputing the NOD. During its appeal with CDTFA, appellant informed CDTFA that the aircraft was donated to appellant by G. Chavez, a now-former member of appellant's congregation.
9. CDTFA subsequently denied appellant's petition for redetermination and this timely appeal followed.

DISCUSSION

California imposes use tax on the storage, use, or other consumption in this state of tangible personal property purchased from a retailer. (R&TC, §§ 6201, 6202.) The purchaser of an aircraft whose purchase is subject to use tax must report and pay the tax to CDTFA. (R&TC, § 6291; Cal. Code Regs., tit. 18, § 1610(c)(2)(A).)⁶ The parties do not dispute that appellant brought the aircraft into California only a few days after appellant took title to the aircraft. Therefore, there is no dispute that use tax applies to the storage, use, or other consumption of the aircraft in California. (See R&TC, § 6246.) Instead, the dispute lies in whether appellant purchased the aircraft or if another individual purchased the aircraft and then donated it to appellant.

As relevant here, "purchase" is defined by R&TC section 6010(a) as "[a]ny transfer of title or possession, exchange, or barter, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property for a consideration." The evidence shows, and the parties do not dispute, that title to the aircraft was transferred from the seller to appellant on April 26, 2016. Appellant argues that it did not provide any consideration in exchange for the aircraft. However, the Aircraft Purchase Contract, Information Request form, and Return all indicate that monetary consideration in the amount of \$150,000 was provided in exchange for the aircraft. Although the Bill of Sale states title of the aircraft was provided in exchange for "\$1.00 + OVC," appellant was unable to provide any clarity regarding the amount listed (other than to say that no money was exchanged). Consequently, OTA finds that the Aircraft Purchase

⁶ R&TC section 6202 and California Code of Regulations, title 18, section 1610(c)(2)(C) provide that when a person purchases an aircraft from another person through a broker, the purchaser's liability for use tax is relieved if the purchaser paid an amount as sales or use tax to the broker, and the purchaser obtains and retains a receipt from the broker showing the payment of such tax. Although the sale at issue was handled by a broker, appellant has not argued that sales or use tax was paid to the broker.

Contract, Information Request form, and Return are the best evidence of both consideration having been provided in exchange for the aircraft, and the amount of that consideration (i.e., a purchase price of \$150,000). Based on the foregoing, the evidence proves that title to the aircraft was transferred from the seller to appellant in exchange for consideration. Therefore, appellant purchased the aircraft.

Appellant argues that it did not purchase the aircraft. Instead, appellant asserts that G. Chavez purchased the aircraft and immediately donated it to appellant. In support of this contention, appellant submitted to OTA a June 6, 2016 letter appellant wrote to G. Chavez thanking him for his donation of the aircraft, and records demonstrating G. Chavez transferred a total of \$150,000 to Aero-Space (presumably, an escrow and title company).⁷

These documents do not support a finding that G. Chavez was the purchaser of the aircraft. There is no evidence that there was a transfer of title or possession, exchange, or barter of the aircraft for a consideration between the seller and G. Chavez, or that G. Chavez held title to the aircraft prior to it being transferred to appellant. Instead, the record in this appeal includes documents filed by Aero-Space listing appellant as the purchaser. Moreover, appellant is listed as the purchaser on the Aircraft Purchase Contract and Information Request form. Missing from all of these documents, notably, is any mention of G. Chavez. Accordingly, OTA finds that G. Chavez did not purchase or donate the aircraft to appellant. As such, appellant, as the purchaser of the aircraft, is liable for the use tax.

⁷ The document appellant submitted to OTA indicates G. Chavez transferred \$135,000 to Aero-Space on April 20, 2016. Documents appellant previously submitted to CDTFA, which are part of the record in this appeal, indicate G. Chavez transferred an additional \$15,000 to Aero-Space on March 31, 2016.

HOLDING

Appellant is liable for the California use tax imposed upon appellant’s storage, use, and consumption of an aircraft in this state.

DISPOSITION

CDTFA’s denial of the petition for redetermination is sustained.

DocuSigned by:
Lauren Katagihara
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Lauren Katagihara
Administrative Law Judge

We concur:

DocuSigned by:
Sheriene Anne Ridenour
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Sheriene Anne Ridenour
Administrative Law Judge

DocuSigned by:
Josh Lambert
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Josh Lambert
Administrative Law Judge

Date Issued: 4/23/2024